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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JEFFREY BITTON, MICHA BITTON AND
SANDRA BITTON,

Plaintiffs,

vs.

CITY AND COUNTY OF SAN
FRANCISCO, a municipal entity, SAN
FRANCISCO POLICE DEPARTMENT
CAPTAIN DAVID LAZAR, POLICE
OFFICER BERKE (SFPD BADGE NO.
2240), POLICE OFFICER BRENT
BRADFORD (SFPD BADGE NO. 4199),
POLICE OFFICER NG (SFPD BADGE NO.
338), POLICE OFFICER DOWKY (SFPD
BADGE NO. 799), POLICE OFFICER
MARON (SFPD BADGE NO. 1929), POLICE
OFFICER NEWBECK (SFPD BADGE NO.
1691), POLICE OFFICER PAPALE (SFPD

Case No. C08-5585 MMC
ORDER RE:

**JOINT STIPULATION TO EXTEND FACT
DISCOVERY CUT-OFF DATE**

STIPULATION AND MOTION RE EXTENSION OF
FACT AND EXPERT DISCOVERY DEADLINES;
CASE NO. C08-5585 MMC

BADGE NO. 642), POLICE OFFICER JONES (SFPD BADGE NO. 852), POLICE OFFICER GARDEN (SFPD BADGE NO. 404), POLICE OFFICER MCKINNEY (SFPD BADGE NO. 4), POLICE OFFICER LIBERTA (SFPD BADGE NO. 682), and DOES 1-100,

Defendants.

Pursuant to Local Rule 6-2, the parties jointly file this stipulated motion to extend the fact discovery deadline from January 29, 2010 to March 26, 2010 and to extend the expert discovery deadline from March 26, 2010 to April 26, 2010.

This is a civil rights action brought by the Jeffrey Bitton, Micha Bitton and Sandra Bitton against individual San Francisco police officers and the City and County of San Francisco. Plaintiffs contend that the Defendants violated their Fourth Amendment rights by making an illegal arrest, an unlawful entry into their home and using unlawful force, while the Defendants maintain that probable cause existed to arrest, exigent circumstances justified a warrantless entry, and that any force used was lawful.

On March 20, 2009, the Court entered a Pretrial Order that established the relevant fact, expert, and trial deadlines controlling this litigation. Pursuant to that Order, fact discovery closes on January 29, 2010, and expert discovery closes on March 26, 2010. The pretrial hearing is set for June 12, 2010, and trial is set for July 12, 2010. A copy of the Order is attached hereto as Exhibit 1.

The parties have agreed to a short extension of time to complete both fact and expert discovery; the requested extension does not effect the pretrial date or the trial date. Good cause exists to extend fact and expert discovery deadlines based on factors that were beyond the control of the parties. On April 6, 2009, the Court originally appointed Charles E. Farnsworth as ENE evaluator and set the ENE conference for June 11, 2009. However, due to conflicting schedules of the parties and the evaluator, and the evaluator's extended vacation plan, the parties were unable to conduct the hearing. Further, defense counsel had a serious family medical emergency during that time, which hampered scheduling of the conference.

1 The parties attempted to reschedule the ENE hearing but due to reasons unknown to the
 2 parties, the ADR administrator recommended that the parties use a different evaluator. The parties
 3 agreed, and on or around November 24, 2009, the Court appointed Patrick Robbins. On December 2,
 4 2009, the parties held their joint phone conference with Mr. Robbins and set January 22, 2010 as the
 5 date for the ENE hearing. The hearing is only seven days before fact discovery is scheduled to close.

6 The parties had agreed to conduct an early neutral evaluation in an attempt to explore the
 7 possibility of resolution without incurring the costs of discovery. The parties have delayed the taking
 8 of any lengthy discovery in anticipation of the ENE. Because the ENE hearing has been postponed
 9 until January 20, 2010, little time to conduct discovery remains if the case does not resolve there.
 10 Thus, the parties will need additional time to complete fact discovery. The parties have agreed to a
 11 short extension of the fact discovery deadline from January 29 to March 26, 2010, which is currently
 12 the date for completion of expert witnesses. Since this case is unlikely to require numerous experts, the
 13 parties have agreed to extend expert discovery for one month from March 26, 2010 to April 26, 2010.
 14 The July 12, 2010 trial date as well as the June 12, 2010 pretrial conference date remain unchanged.

15 This is the parties' first request to extend any of the discovery deadlines set in the Pretrial
 16 Order, and the parties do not anticipate making other requests for additional time. The Court has
 17 issued two prior orders that extended the ENE evaluator's jurisdiction. The first order was entered on
 18 September 29, 2009, and the most recent was entered on December 17, 2009.

19 Dated: December 18, 2009

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23 By: s/Sean Connolly
 24 SEAN F. CONNOLLY
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26 Attorneys for Defendants CITY AND COUNTY OF
 27 SAN FRANCISCO, et al.

1 Dated: December 18, 2009

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2
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ORDER

Pursuant to stipulation, and good cause having been found, it is ordered that fact discovery closure date is extended from January 29, 2010 to and including March 26, 2010. Expert discovery closure date is extended from March 26, 2010 to April 26, 2010. All other dates in the Pretrial Order remain unchanged, including the April 9, 2010 deadline for the filing of any dispositive motion.

Date: December 22, 2009


The Honorable Maxine M. Chesney
Judge of the United States District Court